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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,302	07/09/2003	Hans-Artur Bosser	21295-55	1301
29127	7590	05/17/2005		
HOUSTON ELISEEVA 4 MILITIA DRIVE, SUITE 4 LEXINGTON, MA 02421			EXAMINER GABOR, OTILIA	
			ART UNIT	PAPER NUMBER
			2878	

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EX

Office Action Summary	Application No.	Applicant(s)	
	10/604,302	BOSSER, HANS-ARTUR	
	Examiner	Art Unit	
	Otilia Gabor	2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because Figures 2 and 4 contain units of measurement in German (English language required). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2878

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engelhardt (U. S. Patent 6,355,919) and further in view of Brody et al. (U. S. Patent 3,645,627).

Engelhardt discloses an apparatus and method for calibrating the optoelectronic sensor (5) contained in a microscope, which microscope is used to measure features on a substrate (1). The calibrating apparatus (12) comprises at least: a light source for illuminating the sensor (5) whereby the light source can emit different spectra and quantity of light onto the sensor in order to ascertain the sensor's characteristic response; a memory and evaluation unit for storing the different sensor responses and to automatically correct the sensor's response based on the calibration data obtained (see Col.2, line 61-Col.3, line 64). Engelhardt discloses that the microscope is used to measure features on the surface of the sample (1) by acquiring images of the sample and that the calibration can be done before, during and/or after the scanning and image generation of the object, where during calibration the sensor is intermittently exposed to the scanning light as well. Engelhardt discloses a calibration apparatus and method for a generic microscope where the scanning light could be of any type, but he fails to specifically disclose it to be a UV microscope. However, since he does not limit the scanning light source and since his method can be applied with any light, it is obvious that the calibration method works with any type of microscope and thus it works with a UV microscope as well.

Regarding claims 1, 11, 12, 17 Engelhardt does not disclose in detail how the calibration is done, however, the claimed steps are conventional steps that are taken when a sensor is calibrated using an external light source. These conventional steps are disclosed in Brody et al. Brody et al discloses calibrating a sensor (13) response by illuminating the sensor (13) with a first light quantity from a reference light source (20) and measuring and storing the first sensor output; then varying the light quantity from the source (20) using a controller that controls the light quantity output from the reference light source (20); determining the sensor's response characteristics as a function of the light quantity, followed by the comparisons of the sensor response characteristics in order to determine the changes in the sensor response and the correction amount that the final measurement data needs to be corrected by (see Col.3, lines 39-75, claim 1). Engelhardt discloses that the microscope is used to acquire images with the sensor (5) and that the sensor characteristics are acquired at wavelengths that are used in the measurement of the component (1). Engelhardt also discloses that many different types of measurements can be done using this apparatus, and the fact that an image size and image linearity calibration is done indicates that the object (1) is scanned in order to get an image of the width and spacing features of the object. Regarding claims 14, Engelhardt also discloses that the calibration can be done automatically.

Regarding claims 2, 3 Engelhardt discloses that the calibration means can comprise different reference structures depending on the component to be calibrated. These means can comprise any gratings, lines, steps, recesses, as well as any means

that have known reflecting, absorbing or polarizing means. Thus, it is obvious that absorption or scattering filters are contemplated as part of the calibration means disclosed by Engelhardt.

Regarding claims 4, 5, 13 Brody et al. discloses that controlling the light quantity is done using an aperture (40) and an actuable shutter interposed between the source and the sensor for passing or blocking the light from the source to the sensor (see claims 1, 4, 6 in Col.4).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Otilia Gabor whose telephone number is 571-272-2435. The examiner can normally be reached on Monday, Thursday-Friday between 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Otilia Gabor
Primary Examiner
Art Unit 2878

A handwritten signature in cursive script, appearing to read "Otilia Gabor", written in black ink.